

## **REMARKS**

Applicant respectfully requests reconsideration. Claims 1-40 were previously pending in this application. By this amendment, Applicant is canceling claims 6, 7, 20 and 33 without prejudice or disclaimer so as to avoid additional claim fees. Claims 1, 2, 3, 12, 14, 15, 18, 25, 28, 31 and 38 have been amended. New claims 41-44 have been added. As a result, claims 1-5, 8-19, 21-44 are pending for examination, with claims 1, 15 and 28 being independent claims. No new matter has been added.

### **Rejections under 35 U.S.C. §112**

Claim 1 was rejected because the claim recites “the accumulated network information.” The claim as amended overcomes this rejection. Accordingly, withdrawal of the rejection of claim 1 under 35 U.S.C. §112 is respectfully requested.

### **Brief Overview of the Disclosure and Michaelis Reference**

The following is provided for the Examiner’s benefit as a brief overview of the disclosure of the pending application and the Michaelis et al reference, which serves as a basis for rejection of all the claims. This overview is not meant to characterize the claims or language used in the claims, nor is it intended as a substitute for the Examiner’s reading the application and the references in their entireties.

The application describes a method and apparatus for network and interface selection on a computing device capable of establishing connections via multiple network communications media. A network and interface are selected based on a set of network selection criteria. Network selection logic applies the network selection criteria to network interface information, which is periodically collected from the network interfaces. The network selection logic then identifies and designates one of the set of networks and a network interface.

The application describes a flexible framework for selecting a network. According to this framework, criteria may be provided from a number of sources. As specific examples, the application describes selection criteria from user input, network administrators, and provisioning services.

In some embodiments, the network selection logic is capable of requesting network interface information from a specific network interface as illustrated in paragraph 97 of the published application (U.S. 2005/0091357). These requests are determined by a scanning algorithm that can base the requests in part on past network interface information (paragraph 98).

In some embodiments, the network interface information is provided by media specific modules over a media specific module interface that is composed of a normalization module. The normalization module standardizes communications between all the media specific modules and the network selection logic (paragraph 51).

#### Rejections Under 35 U.S.C. §102

Claims 1-2, 4-8, 12, 15-17, 19-21, 25, 26, 28-34, 38 and 39 are rejected under 35 U.S.C. 102(e) as being anticipated by Michaelis et al., U.S. Patent No. 7,065,367. Applicants respectfully disagree.

Claim 1 as amended recites that the network selection criteria is “acquired from a plurality of sources.” This limitation is supported by the specification as filed. For example, paragraph 39 of the published application (U.S. 2005/0091357) describes an embodiment in which the sources for network and interface selection rules include users, network administrators, and network access provisioning services.

Claim 1 distinguishes over the cited reference. Michaelis et al specifies that “a wireless network interface may be qualified in the sense that it satisfies all of the interface selection rules for the communication application” (Col. 3 lines 51-53). Thus, network selection rules come from the communication application. Michaelis does not teach or suggest selection rules from a plurality of sources, as claimed.

Claim 2-5 and 8-14 depend on claim 1 and should be allowed for at least the same reasons as claim 1. The dependent claims also add limitations that further distinguish over the references, providing further reasons in support of allowance. For example, claim 12 as amended now specifies that the time parameter is the time of network use.

Independent claim 15 as amended recites that the network selection criteria is “acquired from a plurality of sources.” As noted above, Michaelis does not teach or suggest selection rules from a plurality of sources, as claimed.

Claim 16-19 and 21-27 depend on claim 15 and should be allowed for at least the same reasons. The dependent claims also add limitations that further distinguish over the references, providing further reasons in support of allowance.

Independent claim 28 as amended recites that the network selection criteria is "acquired from a plurality of sources." As noted above, Michaelis does not teach or suggest selection rules from a plurality of sources, as claimed.

Claim 29-32 and 34-40 depend on claim 28 and should be allowed for at least the same reasons. The dependent claims also add limitations that further distinguish over the references, providing further reasons in support of allowance.

#### Rejections Under 35 U.S.C. §103

Claims 3, 18, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michaelis et al., U.S. Patent No. 7,065,367.

Claims 9, 11, 22, 24, 35 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michaelis et al., U.S. PN 7,065,367 in view of Dharmadhikari et al., U.S. Published Patent Application No. 2003/0065816.

Claims 10, 23 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michaelis et al., U.S. Patent No. 7,065,367 in view of Davenport, U.S. Published Patent Application No. 2002/0082044.

Claim 14, 27 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michaelis et al., U.S. Patent No. 7,065,367 in view of Castet, U.S. Patent No. 4,088,840.

Each of these claims is rejected under 35 U.S.C. §103 based on Michaelis and one or more additional references. However, each of these claims depends from an independent claim. For reasons given above, Michaelis does not meet all limitations of any of the independent claims. The additional references do not teach or suggest limitations not met by Michaelis and accordingly the references, even if combined, would not teach or suggest all limitations of any of the claims.

Newly Added Claims

New dependent claims 41-44 have been added and specify sources of network selection criteria. These limitations are supported by the specification (paragraph 39). Each of the newly added claims depends, directly or indirectly, from an independent claim. For reasons described above, Michaelis does not teach or suggest all limitations of any of the independent claims. Accordingly, the reference does not teach or suggest all limitations of the newly added claims. Further, the newly added claims recite limitations that further distinguish the reference.

**CONCLUSION**

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

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Respectfully submitted,

By:

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